

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 12-14-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

The nerve conduction study, each nerve, motor without F wave study denied by the carrier with "U" codes were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity issues were not the only issues involved in the medical dispute to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 1-28-05 the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

1 unit of CPT Code 95900 on 12-18-03 was denied as "F" – reimbursed per negotiated contract with Health Net Plus. The requestor provided no additional information as to the status of this "contract". **Recommend no additional reimbursement.**

Regarding 1 unit of CPT Code 95900 on 12-18-03 - Neither the carrier nor the requestor provided EOB's. Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). The Table reveals that the carrier has already paid \$34.84. The MAR is \$65.30. **Recommend additional reimbursement of \$30.46.**

Regarding 6 units of CPT Code 95904 on 12-18-03 - Neither the carrier nor the requestor provided EOB's for date of service. There is no "convincing evidence of the carrier's receipt of the provider request for an EOB" according to 133.307 (e)(2)(B). **No reimbursement recommended.**

Pursuant to 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c); plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 12-18-03 as outlined above in this dispute.

This Decision and Order is hereby issued this 23rd day of February 2005.

Donna Auby  
Medical Dispute Resolution Officer  
Medical Review Division

DA/da

Enclosure: IRO decision



7600 Chevy Chase, Suite 400  
Austin, Texas 78752  
Phone: (512) 371-8100  
Fax: (800) 580-3123

## NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** February 2, 2005

**To The Attention Of:** TWCC  
7551 Metro Center Drive, Suite 100, MS-48  
Austin, TX 78744-16091

**RE: Injured Worker:**  
**MDR Tracking #:** M5-05-1170-01  
**IRO Certificate #:** 5242

Forté has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to Forté for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

Forté has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by an orthopedic surgeon reviewer (who is board certified in orthopedic surgery) who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

**Submitted by Requester:**

- Clinic notes from Dr. Mireles, neurology
- EMG nerve conduction studies dated 12/18/03

**Submitted by Respondent:**

- None

**Clinical History**

The claimant is a 37 year old female who had a work related accident on \_\_\_\_ while pulling boxes above her head where the contents fell onto her. She fell off the stool incurring injury to her right shoulder, elbow and right upper extremity. Her symptoms included difficulty with raising her right upper extremity more than a few minutes with weakness on the right arm and increased pain. She has had physical therapy for her right upper extremity. MRI of the right shoulder showed partial thickness of the subscapularis and supraspinatus tendon. Her symptoms remained pain from the right side of her neck radiating down to her upper extremity. Dr. Mireles recommended EMG nerve conduction studies. The results of the EMG nerve conduction studies showed normal nerve conduction studies.

**Requested Service(s)**

95900 - EMG nerve conduction study, each nerve, motor without F Wave study on 12/18/03

**Decision**

I disagree with the insurance carrier and agree that the services requested were necessary.

**Rationale/Basis for Decision**

The claimant incurred an injury with boxes falling off a height onto her and causing her to fall off the stool, incurring injury to her right shoulder and right upper extremity. She has symptoms of right-sided neck pain with radiation down her right upper extremity. Given her mechanism of injury and continued symptoms of radiation of pain of her neck to her upper extremity, EMG nerve conduction studies are appropriate to determine if there are sites of focal pathology for neurocompression. Based on the mechanism of injury as described on 4/4/03, the claimant may

have had injury to her cervical nerve roots and peripheral nerves. The EMG nerve conduction studies were indicated as a diagnostic tool in this case.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 2<sup>nd</sup> day of February 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder